

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AYYAKKANNU MANIVANNAN,

Plaintiff,

v.

U.S. DEPARTMENT OF ENERGY,

Defendant.

Civil Action No. 18-297

Magistrate Judge Maureen P. Kelly

AYYAKKANNU MANIVANNAN,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

Civil Action No. 19-828

Magistrate Judge Maureen P. Kelly

**JOINT STATEMENT OF UNDISPUTED FACTS**

The parties, pursuant to the Summary Judgment Scheduling Order entered August 28, 2023 (ECF 112), respectfully submit the following Joint Statement of Undisputed Facts.

1. Defendant the U.S. Department of Energy (“DOE” or the “agency”) is a federal agency that oversees the work of 17 national laboratories, including the National Energy Technology Laboratory (“NETL”). Consolidated Second Amended Complaint (ECF No. 59) (“SAC”) ¶ 12; Answer to Second Amended Complaint (ECF No. 100) (“Ans.”) ¶ 12.

2. Plaintiff Dr. Ayyakkannu Manivannan was employed by the U.S. Department of Energy to work at NETL from 2005 to 2016. Ans. ¶ 10.

3. On March 19, 2015, Officer Jessica B. Meyer of the Pennsylvania State University Police filed a Police Criminal Complaint against Manivannan in Magisterial District

Court in Centre County, Pennsylvania, *Comm. v. Manivannan*, Cr-73-2015 (MDJ 49-3-05).

MANI\_000285-287 (Police Criminal Complaint); SAC ¶ 44.

4. The complaint charged Manivannan with one first-degree misdemeanor count of stalking and one third-degree misdemeanor count of harassment. *Id.*

5. The Police Criminal Complaint was accompanied by a sworn affidavit of probable cause executed by Officer Meyer. MANI\_000290.

6. On June 30, 2015, DOE engaged Marisa Williams to conduct a “Management-Directed Inquiry” (“MDI”) into Manivannan. MANI\_026910 (requisition).

7. Williams interviewed Manivannan.

8. The MDI resulted in an Investigation and Report entitled “Confidential Management Directed Inquiry into Allegations Against Ayyakkannu Manivannan” dated January 8, 2016. MANI\_015240 (first page).

9. Hunzeker, an attorney with NETL, had contacts by telephone and email with Officer Meyer, including a phone call between Hunzeker and Officer Meyer that occurred “in late 2015 or early 2016.” Ans. ¶ 112.

10. Hunzeker also had contacts by telephone and email with Megan McGoron, an Assistant District Attorney with the Centre County District Attorney’s Office (“DA’s Office”). SAC ¶ 39; Ans. ¶ 39.

11. At some point, Hunzeker told McGoron that NETL’s investigation included travel documents and documents related to the Plaintiff, and his use of Departmental computers. SAC ¶ 56; Ans. ¶ 56.

12. On January 14, 2016, a Criminal Information was filed in a second criminal action against Manivannan, *Commonwealth v. Manivannan*, CP-14-CR-0000017-2016, charging him with five felony counts of unlawful use of a computer. SAC ¶ 46.

13. On March 10, 2016, McGoron sent an email attaching a subpoena to Hunzeker. SAC ¶ 70.

14. On March 16, 2016, DOE sent documents to the Centre County DA's Office, accompanied by a cover letter from Paul Detwiler. SAC ¶¶ 82, 73; Ans. ¶¶ 82, 73.

15. The Detweiler letter stated that "a state court subpoena is ineffective against an officer or agency of the United States due to its sovereign immunity," but that "DOE is providing the requested records as a matter of comity." (SAC Ex. 15.) SAC ¶ 83 & Ex. 15; Ans. ¶ 83.

16. In the criminal case, *Commonwealth v. Manivannan*, a two-day jury trial was held on April 18 and 19, 2016. SAC ¶ 49; trial transcript with exhibits, MANI\_001883–2863.

17. Hunzeker attended the trial.

18. DOE employee Mary Anne Alvin testified at the trial. Alvin testimony, MANI\_002160–2176; SAC ¶ 110.

19. Of the witnesses called by the prosecution, Mary Anne Alvin was the only DOE employee.

20. Exhibits at trial included exhibits composed of documents disclosed by DOE to the DA's Office.

21. In Alvin's testimony, she was asked about such exhibits that were admitted into evidence as Commonwealth's exhibits, including:

- Commonwealth's Exhibit 34. MANI\_002692.
- Commonwealth's Exhibit 47. MANI 002258–2259.

- Commonwealth's Exhibit 48 (MANI\_002260). Continuation pages marked as Exhibit 49 (MANI\_002261–2262).
- Commonwealth's Exhibit 50 MANI\_002263–2264.
- Commonwealth's Exhibit 51. MANI\_002265.
- Commonwealth's Exhibit 52. MANI\_002266.
- Commonwealth's Exhibit 74. MANI\_002363 (part of MANI\_002360–2367).

22. Other exhibits introduced by the Commonwealth composed of documents disclosed by DOE to the DA's Office included Commonwealth's Exhibits 37, 39, 40, 41, 42, 43, 44 (MANI\_002247–2252, MANI\_002693).

23. The Commonwealth exhibits were moved into evidence by the Commonwealth.

24. In the defense's case at trial, Manivannan called witnesses and introduced exhibits into evidence.

25. Manivannan's exhibits included documents disclosed by DOE to the DA's Office.

26. The defense exhibits composed of documents disclosed by DOE to the DA's Office included: 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13a, 13b, and 19 (MANI\_002825–2844, MANI\_002851–2854).

27. The defense exhibits were moved into evidence by Manivannan. MANI\_2608.

28. At the end of the trial, Manivannan was acquitted of the stalking charge and convicted of the unlawful use of computer charges and harassment charge. After an appeal vacated the convictions, the court entered a nolle prosequi at the request of the Centre County DA's Office. MANI\_003160 (verdict), MANI\_007078-007108 (appeal); MANI\_007282 (nolle prosequi).

29. Hunzeker and McGoron exchanged emails after the criminal trial.

30. On June 16, 2016, Dr. Manivannan submitted a resignation letter to the Agency. This ended the removal proceedings before the agency had reached any decision on the charges in the proposed notice of removal. SAC ¶ 124; Ans. ¶ 122 & 124.

Respectfully submitted,

Dated: October 27, 2023

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